

HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

AND

HONOURABLE SRI JUSTICE D.APPA RAO

WRIT PETITION No.10380 OF 2006

Dated:24.05.2006

Between:

..... PETITIONER

AND

.....RESPONDENTS

HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

AND

HONOURABLE SRI JUSTICE D.APPA RAO

WRIT PETITION No.10380 OF 2006

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JUDGMENT: *(per Hon'ble Sri Justice L.Narasimha Reddy)*

The gold weighing 2kgs. 456 grams worth Rs.20,10,765/- was seized from the petitioner on 26.04.2006 by the first respondent, on the allegation that the same was not covered by any documents. Thereafter, the first respondent initiated proceedings for confiscation of the seized goods in exercise of his powers under Section 45 of the Andhra Pradesh Value Added Tax Act, 2005 (for short 'the Act'). The

petitioner challenges the seizure on several grounds.

Heard the learned counsel for the petitioner and the learned special Government Pleader for Commercial Taxes.

Inasmuch as the proceedings initiated against the petitioner are pending, we resist from expressing any final view in the matter. However, when we examine the matter *prima facie*, while considering the request of the petitioner for releasing the seized goods, it becomes clear that basically the power to seize and confiscate is vested under Section-47 (7)(b) of the Act, only when the goods are found to be transported in a goods vehicle. Such is not the case here. Even a perusal of the panchnama discloses that the goods were seized from the proprietor of the petitioner concern, when he was traveling in a Ambassador car. Basically, in such cases Section 45 (7)(a) of the Act becomes attracted. This, however, is a matter, which needs to be considered in the pending proceedings.

This Court is of the view that the continued seizure of the goods, particularly, having regard to their value, would have its own impact on the business and rights of the petitioner. Section 45(7) (a) of the Act empowers the authorities to levy tax as well as penalty not exceeding two times. The tax on the ornaments is said to be 1%.

Having regard to the facts and circumstances, the writ petition is disposed of directing respondents 1 and 2 to release the seized gold to the petitioner, in the same condition, subject to the deposit of a sum of Rs.5,00,000/- (Rupees Five Lakhs only) by the petitioner. It is made clear that such deposit would be subject to the out come of the proceedings initiated against the petitioner and he, in turn, shall be under obligation to comply with such directions, as may be issued by the authorities from time to time, as provided for under the relevant

law.

L.NARASIMHA REDDY, J

D.APPA RAO, J

24.05.2006

Note: Issue C.C. by tomorrow.

dr/jsu

HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

AND

HONOURABLE SRI JUSTICE D.APPA RAO

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(per Hon'ble Sri Justice L.Narasimha Reddy)

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